



Forestry Tasmania
GROWING OUR FUTURE

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FAXED

Phone: (03) 6233 8182

Your Ref:

Our File:

12 August 2005

The General Manager
Adjudication Branch
Australian Competition & Consumer Commission
PO Box 1199
DICKSON ACT 2602

Dear Sir

**Re: Application for Authorisations A90973 and 90974
Lodged by the Tasmanian Forest Contractors Association Limited**

Forestry Tasmania (FT) has been provided a copy of the application made by the Tasmanian Forest Contractors Association Ltd (TFCA).

This application by the TFCA, who provide services to a portion of the contractors working in the industry, has the potential to introduce significant uncompetitive forces into a major Tasmanian industry.

The industry in Tasmania is a major employer, directly involving over 10,000 jobs and turning over in excess of \$1 billion annually. It is a dynamic industry that operates in a broad range of value added downstream processes. The supply chain services many markets, both domestically and through export. While Tasmania's sustainable resource base provides a strong foundation to market development and opportunity, the market place is highly competitive and international by its nature.

Forestry Tasmania is a Government Business Enterprise (GBE) responsible for the management of 1.5 million hectares of forest throughout Tasmania. This land is managed under the principles of multiple use and, as such, FT provides a range of commercial products and services to a very broad market.

As a GBE, under the direction of an independent Board, FT is required to operate under the same structure of governance and commercial outcomes as a corporation. The organisation employs approximately 580 direct employees and over 1000 contractors statewide.

**AUST. COMPETITION &
CONSUMER COMMISSION
CANBERRA**
16 AUG 2005

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FT and its business operations are accredited under the Australian Forestry Standard, ISO 14001 and AS4801. All contract services are engaged under written contracts. These are structured under the format provided by contracts law and the agreed legislative procedure called the Tasmanian Forestry Fair Contracts Code 2003. As noted in our preliminary submission, this government initiative was developed and supported with direct input from industry, including the TFCA.

The TFCA has specifically acknowledged and recognised FT's General Terms and Conditions as compliant with this legislation.

Market price points on contract services are established through a range of documented standard operating procedures for tendering and negotiating rates. These processes are subject to full and proper internal and external audit procedures. This includes both the normal financial audit, as well as audit of systems and procedures for the various levels of accreditation/certification maintained by FT to meet market and corporate governance requirements.

While it is quite normal to describe the range of contract services utilised by FT under categories such as harvesting and transport, silviculture, site preparation, road construction etc, the variation within these services is enormous. They also range from highly specialised to widely available services which necessitates an open and flexible approach to contract negotiations.

It should also be noted that contract services in the competitive Australian market operate across state boundaries, even in Tasmania. The open competitive nature of the Australian forest industry is vital to its commercial health and a necessity in driving continuous improvement in an increasingly globalised industry.

The TFCA application is in danger of being regarded as parochial and in ignorance of the wider market availability of these services in Australia. This could be very detrimental to Tasmanian contractors which, to date, have provided a level of innovation and price competitiveness that has seen many benefit by the expansion of their business to other states.

The existing open competitive market for these services in the industry allows large and small contractors to operate successfully. As previously described, the nature of the services provided in the forest, particularly native forest, are extremely varied and the structure of different contracts can be so different because of the equipment and work methods required.

FT accepts this variability and negotiates individually with contract principals in each case to get the best cost and operational outcome. Collecting bargaining by a single body such as the TFCA would only inhibit the outcome.

Even if this process could somehow remain competitive, the TFCA do not have the structure, staffing or skills to even assist in negotiating the multitude of contracts that FT manages in any given period. So, common sense would dictate that the process would either slow down (and break down as services are geared to seasonal timetables) or escalate in cost to the end user (as TFCA equipped itself to manage the task). This would still suppose that the TFCA was representing the majority of contractors servicing FT, and it does not directly do this.

FT has a strong track record of working directly with its employees and contractors. It does this in an open, fair and direct manner. Existing legislation provides adequate opportunity for all of these parties to enter into negotiation, mediation, arbitration or conciliation if necessary.

FT shares the concerns raised by the TFCA on safety and training within the industry. However, the claim that the power to collectively negotiate will increase OHS outcomes is not substantiated in practice. Under the certification standards for safety and environmental practices within FT's business, FT's safety professionals work directly with contractors to achieve the highest standards. This is of primary importance to our business. Regular workshops and auditing of contracts and contractors is fundamental to normal business procedures. Also, as a Registered Training Authority (RTO), FT is very aware of the need to provide training opportunities and skills recognition to employees and contractors.

There are several state-based organisations providing these services that are supported by the industry, including the TFCA (e.g. the Tasmanian Timber Industry Training Board).

In summary, FT would maintain that this application, if successful, would significantly inhibit the economic efficiency of the industry, reduce competitive behaviour and further destabilise this sector of service provision within Tasmania.

Further evidence to this is concern being raised by a number of companies contracting to FT who do not wish to be covered by such an application as described by the TFCA.

FT would be happy to provide any further detailed information as may be required by the Adjudication Branch.

Yours sincerely

Haia Butcher

for **Kim Creak**
General Manager (Operations & Sales)